



BILL NO. 121

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 25, ARTICLES 1, 4, AND 5, OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO TRANSIENT ACCOMMODATION RENTALS AND HOSTING PLATFORMS.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Chapter 25, article 1, section 25-1-5, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by repealing the definition of “short term vacation rental”.

~~[“Short term vacation rental” means a dwelling unit of which the owner or operator does not reside on the building site, that has no more than five bedrooms for rent on the building site, and is rented for a period of thirty consecutive days or less. This definition does not include the short term use of an owner’s primary residence as defined under section 121 of the Internal Revenue Code.”]~~

SECTION 2. Chapter 25, article 1, section 25-1-5, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by adding the following new definitions to be appropriately inserted and to read as follows:

““Booking services” means intermediary services that facilitate the advertisements and listings of, reservations of, or collection of payment for transient accommodation rentals.”

““Event” means a formal congregation, which may or may not include the engagement of professional services, that is not typical in residential areas, such as wedding receptions, concerts, or promotional events.”

““Gathering” means an informal congregation typical of residential areas, such as a picnic, family dinner, or small birthday party, where attendees stay within the parking area accompanying a transient accommodation rental.”

““Hosting platform” means a business or person that provides a marketplace through which transient accommodation rentals may be offered for rent.”

““Operator” means any person operating a transient accommodation rental on behalf of a property owner, who resides on the same building site as the transient accommodation rental and uses it as their permanent address for legal purposes.”

““Operator-hosted” means any transient accommodation rental hosted by an operator.”

““Owner-hosted” means any transient accommodation rental hosted by a person who uses the building site as their principal home.”

““Principal home” means a principal home as defined in section 19-71(e), Hawai‘i County Code.”

““Transient” or “transients” means any visitor or person who rents or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor. This definition shall not apply to:

- (1) Nonpaying guests of the family occupying the unit;
- (2) Clients in health care facilities;
- (3) Full-time students enrolled in an educational institution in the County of Hawai‘i;
- (4) Employees who receive room and/or board as part of their salary or compensation including agricultural workers;
- (5) Occupants of group living facilities, authorized by the department of health;
- (6) Military personnel;
- (7) Health care workers temporarily employed at a medical facility in the County of Hawai‘i;
- (8) Low-income renters receiving rental subsistence from the state or federal governments whose rental periods are for durations shorter than sixty days; or
- (9) Occupants of lodging provided by nonprofit corporations or associations for religious, charitable, or education purposes; provided that no income is produced, even if the income is used for or in furtherance of the exempt activities of such religious, charitable, or educational corporation or association.”

““Transient accommodation” means the furnishing of a room, apartment, suite, single family dwelling, or the like to a transient for less than one hundred eighty consecutive days for each letting in a hotel, apartment hotel, motel, condominium or unit as defined in chapter 514B, cooperative apartment, dwelling unit, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients. (Reference section 237D-1, Hawai‘i Revised Statutes.)”

““Transient” accommodation rental” means transient accommodations excluding:

- (1) Hotels, motels, and inns;
- (2) Apartment hotels;
- (3) Boarding facilities;
- (4) Lodges; and
- (5) Timeshares.”

““Un-hosted” means any transient accommodation rental that is not the principal home of the property owner and without an operator located on the same building site during rental operations.”

““Verified complaint” means any complaint filed on a complaint form prepared by the planning department pursuant to rule 9 of the planning department rules of practice and

procedure or forwarded to the department and verified as a zoning code violation by the director.”

SECTION 3. Chapter 25, article 4, sections 25-4-16, 25-4-16.1, 25-4-16.2, and 25-4-16.3, of the Hawai‘i County Code 1983 (2016 Edition, as amended), are repealed.

SECTION 4. Chapter 25, article 4, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by adding the following new division to read as follows:

“Division 1.1. Use Regulations – Transient Accommodation Rentals.

Section 25-4-16. Transient accommodation rental registration required; exceptions.

- (a) The County of Hawai‘i recognizes three types of transient accommodation rentals: owner-hosted, operator-hosted, and un-hosted. All three types of transient accommodation rentals must be registered with the planning department as permitted in sections 25-4-16.1, 25-4-16.2 and 25-4-16.3, except as provided in subsection (b).
- (b) Registration as a transient accommodation rental shall not be required if:
 - (1) The rental is not being provided to a transient or transients as defined by this chapter;
 - (2) There is an emergency declaration enabling temporary shelter for displaced persons;
 - (3) The dwelling is the principal home of the host and is provided as a home exchange and no financial exchange occurs; or
 - (4) The dwelling is being provided to a tenant under a month-to-month lease subject to chapter 521, Hawai‘i Revised Statutes, the Hawai‘i residential landlord-tenant code.
- (c) Any property owner that claims an exception set forth in this section where there is prima facie evidence to the contrary, shall be considered to be in violation of this chapter and subject to the fines set forth in section 25-4.16.19.

Section 25-4-16.1 Owner-hosted transient accommodation rentals.

- (a) Where permitted. When the transient accommodation rental is subordinate and clearly or customarily incidental to its use as the principal home of the owner, a transient accommodation rental may be registered at any time in any zoning district subject to the following requirements:
 - (1) The transient accommodation rental shall be located in a single-family dwelling, inclusive of a detached bedroom or guesthouse;
 - (2) The transient accommodation rental shall not be permitted in an additional farm dwelling, second dwelling, or ohana dwelling; and
 - (3) The owner shall live in a single-family dwelling on the building site of the home and not live in a guesthouse or a detached bedroom of a single-family dwelling.
- (b) Nonconforming use.
 - (1) If the transient accommodation rental has been in regular use in an ohana dwelling on the same building site, the owner shall have the burden of proof in establishing that the ohana dwelling was in use as a transient accommodation

rental on or before January 1, 2024, and may register by obtaining a nonconforming use certificate pursuant to this section.

- (2) Owner-hosted nonconforming use certificates may only be transferred upon a change in ownership if the new owner intends to use the property as their principal home.
- (3) Nonconforming use certificates must be renewed annually in accordance with section 25-4-16.14.

(c) Fees.

- (1) Initial registration: \$500.
- (2) Annual registration renewal: \$100.
- (3) Nonconforming use certificate: \$250.
- (4) Annual nonconforming use certificate renewal: \$250.

Section 25-4-16.2 Operator-hosted transient accommodation rentals.

(a) Where permitted. When the transient accommodation rental is subordinate and clearly or customarily incidental to the use as the residence and permanent address of the operator, a transient accommodation rental may be registered at any time subject to the following requirements in the following districts:

- (1) V, CG, CN, CV, and CDH districts, including these districts situated within a project district;
- (2) Residential districts, situated in general plan resort and resort node areas, including areas designated as open in the general plan which adjoin the resort or resort node areas along the shoreline and areas within a project district; and
- (3) RM district, for multiple family dwellings within a condominium property regime as defined and governed by chapters 514A or 514B, Hawai'i Revised Statutes, including within a project district.

(b) Additional conditions.

- (1) The transient accommodation rental shall be located in a single-family dwelling, inclusive of a detached bedroom or guesthouse;
- (2) The transient accommodation rental shall not be permitted in an additional farm dwelling, second dwelling, or ohana dwelling; and
- (3) The operator shall live in a single-family dwelling unit on the building site of the home and shall not live in a guesthouse or a detached bedroom of a single-family dwelling.

(c) Nonconforming use.

- (1) In districts other than those specified in (a), the owner shall have the burden of proof in establishing that the property was in regular use as a transient accommodation rental on or before January 1, 2024, and that an operator was residing on the property. The owner may register by obtaining a nonconforming use certificate pursuant to this section.
- (2) Operator-hosted nonconforming use certificates granted may only be transferred upon change in ownership if the new owner provides evidence of an operator in the form of a lease or contract with an operator or the new owner intends to use the property as their principal home.
- (3) Nonconforming use certificates must be renewed annually in accordance with section 25-4-16.14.

(d) Fees.

- (1) Initial registration: \$750.
- (2) Annual registration renewal: \$150.
- (3) Nonconforming use certificate: \$375.
- (4) Annual nonconforming use certificate renewal: \$375.

Section 25-4-16.3 Un-hosted transient accommodation rentals.

(a) Where permitted. Un-hosted transient accommodation rentals may be registered at any time in the following districts:

- (1) V, CG, CN, CV, and CDH districts, including these districts situated within a project district;
- (2) Residential districts, situated in general plan resort and resort node areas, including areas designated as open in the general plan which adjoin the resort or resort node areas along the shoreline and areas within a project district; and
- (3) RM district, for multiple family dwellings within a condominium property regime as defined and governed by chapters 514A or 514B, Hawai'i Revised Statutes, including within a project district.

(b) Nonconforming use.

- (1) In districts other than those specified in subsection (a), un-hosted transient accommodation rentals may only operate with an existing nonconforming use certificate.
- (2) No additional nonconforming use certificates shall be issued for un-hosted transient accommodation rentals.
- (3) Nonconforming use certificates must be renewed annually in accordance with section 25-4-16.14.

(c) Fees.

- (1) Initial registration: \$1000.
- (2) Annual registration renewal: \$250.
- (3) Nonconforming use certificate: \$500.
- (4) Annual nonconforming use certificate renewal: \$500.

Section 25-4-16.4. Transient accommodation rental registration and nonconforming use fee schedule.

<u>TRANSIENT ACCOMMODATION RENTAL REGISTRATION AND NONCONFORMING USE FEE SCHEDULE</u>			
<u>Rental Type</u>	<u>Initial Registration</u>	<u>Annual Registration Renewal</u>	<u>NUC Initial & Annual Renewal</u>
<u>Owner-Hosted</u>	<u>\$500</u>	<u>\$100</u>	<u>\$250</u>
<u>Operator-Hosted</u>	<u>\$750</u>	<u>\$150</u>	<u>\$375</u>
<u>Un-hosted</u>	<u>\$1000</u>	<u>\$250</u>	<u>\$500</u>

Section 25-4-16.5. Additional registration requirements; all transient accommodation rentals.

To register, all transient accommodation rentals must also satisfy the following requirements:

- (1) The transient accommodation rental must have off-street parking as required by the department's transient accommodation rental parking schedule;
- (2) The transient accommodation rental must meet health, safety, and construction code requirements established by law;
- (3) Owners of transient accommodation rentals must have State of Hawai'i general excise tax and transient accommodation tax licenses that are in effect; and
- (4) Owners of transient accommodation rentals must be current on their Hawai'i County real property taxes, that is, they must be paid in full.

Section 25-4-16.6. When to register.

- (a) Existing owner-hosted and operator-hosted transient accommodation rentals in operation on or before June 30, 2024, who have submitted a registration application and the initial registration fee on or before June 30, 2025, shall be allowed to continue to operate until such time as their application is approved or denied by the department subject to the standards in section 25-4-16.17 and fines in section 25-4-16.19.
- (b) Existing un-hosted transient accommodation rentals that were previously registered as short term vacation rentals shall not be required to reregister, however, they will be required to renew their registration annually in accordance with section 25-4-16.9.
- (c) Any new transient accommodation rentals shall be registered with the director prior to use of such rental and upon payment of the initial registration fee.

Section 25-4-16.7. Rental registration process.

- (a) Owners of a transient accommodation rental shall register by submitting a registration application to the planning department in a format prescribed by the director. The registration form, at a minimum, shall include:
 - (1) Property address and tax map key number;
 - (2) Name and contact information for the property owner. Name and contact information for the operator, if different from the property owner, or the reachable person if the transient accommodation rental is un-hosted;
 - (3) If required pursuant to chapter 467, Hawai'i Revised Statutes, a copy of a current, valid real estate broker's license or real estate salesperson's license;
 - (4) Submittal of a site drawing, drawn to scale, showing the location of all structures on the site, the transient accommodation rental, and requisite off-street parking;
 - (5) Submittal of a floor plan showing the location of the rooms for rent, the layout of the transient accommodation rental and emergency exits;
 - (6) A notarized affidavit in a format determined by the director, and submitted under penalty of perjury, that the transient accommodation rental meets health, safety, and code requirements;
 - (7) A maximum renter limit calculation;
 - (8) Copies of a current State of Hawai'i general excise tax license; and
 - (9) County of Hawai'i real property tax clearance certificate.

- (b) Upon acceptance of a registration application and determination that it is accurate and complete, the planning director shall issue the property owner a transient accommodation rental registration number.

Section 25-4-16.8. Failure to register.

Any transient accommodation rental that has not lawfully registered shall be considered an unpermitted use and subject to the fines set forth in section 25-4-16.19 until the rental is properly registered or ceases to operate as a transient accommodation rental.

Section 25-4-16.9. Annual renewal of registration required.

- (a) All transient accommodation rental registrations shall be renewed annually.
- (b) Transient accommodation rental owners shall submit their registration renewal by the following deadlines:
- (1) For transient accommodation rentals registered on or prior to June 30, 2025, on or prior to a date specified by the director; or
 - (2) For transient accommodation rentals registered after June 30, 2025, on or before the date that the transient accommodation rental registration number was issued by the department.
- (c) In addition to any requirements established by the department's rules, all renewal applications shall include:
- (1) Evidence that real property taxes and County of Hawai'i transient accommodation taxes for the rental were paid in full during the previous year; and
 - (2) Payment of an annual renewal fee.
- (d) If the renewal is submitted within ninety days after the due date, a late renewal fee of \$100 shall be assessed.

Section 25-4-16.10. Annual renewal of registration; denial.

Renewal of a registration may be denied if the director verifies any of the following:

- (1) The applicant has violated pertinent laws;
- (2) The affidavit affirming that the transient accommodation rental meets all health, safety and code requirements is found to be inaccurate;
- (3) The owner is delinquent in payment of County property taxes, transient accommodation taxes, fees, fines, or penalties assessed in relation to the transient accommodation rental;
- (4) Evidence of non-responsive management, such as issuance of a notice of violation, police reports, or verified complaints of noise or other disturbances relating to the transient accommodation rental operations;
- (5) The renewal request and renewal fee were not received within ninety days of the expiration date indicated on the certificate; or
- (6) Any violation of standards set forth in section 25-4-16.17.

Section 25-4-16.11. Notice of denial of registration renewal and appeal.

- (a) Notice of a decision by the director to deny a registration renewal shall be transmitted in writing to the property owner.

- (b) Within thirty days after the transmittal of a notice of denial, the owner may appeal to the board of appeals as provided by section 6-9.2, County Charter, and sections 25-2-20 through 25-2-25.

Section 25-4-16.12. Transient accommodation changes of information; ownership.

- (a) Owners shall notify the director by submitting a change of information form when there have been changes to:
- (1) The host or the host's contact information;
 - (2) The reachable person or the reachable person's contact information;
 - (3) The number of bedrooms included in the transient accommodation rental;
 - (4) The site plan, floor plan, or the structure of the transient accommodation rental;
- or
- (5) A transient accommodation rental establishment permanently ceases to operate for any reason.
- (b) Upon change in ownership, a change of ownership form and a change of registration fee of \$250 shall be submitted to the planning department by the new owner within ninety days of the change in ownership.

Section 25-4-16.13. Hosted transient accommodation rental nonconforming use certificate.

- (a) Applicants for owner-hosted and operator-hosted transient accommodation rental nonconforming use certificates must notify by letter all owners and lessees of record of all lots of which any portion is within three hundred feet of any point along the perimeter boundary of the transient accommodation rental property. The notification letter shall provide detailed information about the transient accommodation rental operation including: the number of units being rented; maximum number of renters permitted; number and location of required off-street parking spaces; contact information for the host or reachable person; and instructions on how to submit complaints to the planning department about the subject rental operation.
- (b) Owner-hosted and operator-hosted transient accommodation rentals who have submitted a nonconforming use certificate application and the application fee on or before June 30, 2025 shall be allowed to continue to operate until such time as their application is determined to be accurate and complete by the department subject to the standards in section 25-4-16.17 and fines in section 25-4-16.19.
- (c) If at any time an owner-hosted or operator-hosted transient accommodation rental with a nonconforming use certificate is found to be un-hosted, the transient accommodation rental registration and the hosted nonconforming use certificate shall be revoked and a fine shall be imposed in accordance with the schedule established in section 25-4-16.19.

Section 25-4-16.14. Annual renewal of nonconforming use certificates.

- (a) Nonconforming use certificates must be renewed every year on or before the expiration date indicated on the certificate.
- (b) At the time of renewal, a renewal fee shall be remitted in accordance with the schedule in section 25-4-16.4.
- (c) For nonconforming use certificate renewals submitted within ninety days after the due date, a late renewal fee of \$100 shall be assessed.

- (d) Nonconforming use certificates overdue by more than ninety days will not be accepted and the failure to renew shall be considered voluntary forfeiture of the certificate, rendering the certificate ineligible for further renewal.

Section 25-4-16.15. Annual renewal of nonconforming use certificates; denial.

Renewal of a nonconforming use certificate may be denied if the director verifies any of the following:

- (1) The applicant has violated pertinent laws;
- (2) The affidavit affirming that the transient accommodation rental meets all health, safety, and code requirements is found to be inaccurate;
- (3) The owner is delinquent in payment of County property taxes, transient accommodation taxes, fees, fines, or penalties assessed in relation to the transient accommodation rental;
- (4) Evidence of non-responsive management, such as issuance of a notice of violation, police reports, or verified complaints of noise or other disturbances relating to the transient accommodation rental operations;
- (5) The renewal request and renewal fee were not received within ninety days of the expiration date indicated on the certificate;
- (6) Any violation of standards set forth in section 25-4-16.17; or
- (7) The transient accommodation rental has been abandoned pursuant to section 25-4-62.

Section 25-4-16.16. Notice of denial of a nonconforming use certificate application or renewal and appeal.

- (a) Notice of a decision by the director to deny a nonconforming use certificate or renewal of a nonconforming use certificate shall be transmitted in writing to the property owner.
- (b) Within thirty days after the transmittal of a notice of denial, the owner may appeal to the board of appeals as provided by section 6-9.2, Hawai'i County Charter, and sections 25-2-20 through 25-2-25.

Section 25-4-16.17. Transient accommodation rental operation standards.

The transient accommodation rental operation shall comply with the following standards, which shall be prominently displayed within the rental.

- (1) Posted information and responsive management standards.
 - (A) For hosted rentals, a host shall physically reside on the same building site as the transient accommodation rental during transient accommodation rental operations and shall be reachable at the request of renters, neighbors, and County agencies within one hour of a request. A copy of the registration as well as the host's name and phone number, shall be displayed in a conspicuous place on the premises that is readily visible to any occupants. In emergency or unforeseen circumstances, the host may request a temporary exception from this standard from the director.
 - (B) For un-hosted rentals, a reachable person shall respond via telephone to a request from a guest, neighbor, or County agency within one hour of receiving that request and shall be physically present at the transient accommodation rental within three hours of receiving a call from a renter.

- neighbor, or County agency, when that renter, neighbor, or County agency requests the presence of the reachable person. A copy of the registration as well as the host's name and phone number, shall be displayed in a conspicuous place on the premises that is readily visible to any occupants.
- (C) The registration and the nonconforming use or hosted nonconforming use certificates if applicable, shall be displayed in a conspicuous place on the premises that is readily visible to an inspector. In the event that a single address is associated with numerous nonconforming use certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous, readily visible common area instead.
- (2) Good neighbor standards.
- (A) The renter limit for adult occupants in transient accommodation rentals shall not exceed the renter limit established at the initial registration of the property.
- (B) All overnight renters shall be registered with the owner or host and shall, in the rental agreement, agree to comply with the terms of use of the property.
- (C) Gathering sizes are limited to two times the overnight renter limit and shall only use the off-street parking provided for the transient accommodation rental.
- (D) In hosted transient accommodation rentals, only breakfast meals may be offered to guests. The serving of breakfast meals on the building site, for a fee to individuals other than registered guests shall be prohibited. Owners shall secure any required permit from the State department of health for the service of breakfast meals.
- (E) Weddings, wedding receptions, concerts, or events, are prohibited unless allowed by special permit or use permit.
- (F) Applicants, owners, operators, reachable persons, and renters shall comply with the terms of special use or use permit conditions to mitigate the impacts of the event on surrounding properties, including but not limited to: event size; type of event; temporary structures; use of sound amplifying devices; parking requirements; and additional insurance coverage.
- (G) Quiet hours shall be from 8:00 p.m. to 7:00 a.m., during which time the noise from the transient accommodation rental shall not disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not exceed the standards set forth in title 11, chapter 46, Hawai'i Administrative Rules. For the purposes of this section, "audible" means sound perceptible by a person without the use of a sound detection device or audio aides. Violations of this standard shall be reported to the Hawai'i County police department.
- (H) Off-street parking shall meet the requirements set forth in section 25-4-51 and applicable parking standards in this chapter, and all guest vehicles shall be parked in the designated onsite parking area.
- (3) Advertising and signage standards.
- (A) All print and internet advertising of transient accommodation rentals, including listings with a rental service or real estate firm, shall include the

registration number and the nonconforming use certificate number or hosted nonconforming use certificate number.

- (B) Advertising or promoting a transient accommodation rental as a venue for weddings, wedding receptions, concerts, or events, and providing any professional services to anyone other than registered guests of transient accommodation rental is prohibited unless allowed by special permit or use permit.
- (C) Any commercial signage that advertises a transient accommodation rental shall comply with the requirements of section 22-2.6 and chapter 3 of the Hawai'i County Code.
- (D) Except for multi-family units, signage indicating the street address of the transient accommodation rental and the registration number should be clearly visible from the main roadway used to access the property.

Section 25-4-16.18. Prima facie evidence; transient accommodation rentals.

- (a) The following shall constitute prima facie evidence that a transient accommodation rental is operating on a property and the conditions under which it is operating:
 - (1) Advertising of any sort that offers a property as a transient accommodation rental;
 - (2) The ability of the planning department to book the rental under any of the conditions defined by this section as requiring transient accommodation rental registration;
 - (3) Hawai'i County transient accommodation tax receipts; or
 - (4) In the event that the County enters into a contract with third party hosting platforms to provide transient accommodation rental listing information, a report provided by the engaged third party.
- (b) The burden of proof shall be on the owner to establish either that the property is not being used as a transient accommodation rental or that it is being used for such purpose legally.

Section 25-4-16.19. Transient accommodation rental fee and fine schedule.

<u>TRANSIENT ACCOMMODATION RENTAL FEES</u>	
<u>Change in ownership</u>	<u>\$250</u>
<u>Late fee registration or nonconforming use certificate renewal</u>	<u>\$100</u>
<u>TRANSIENT ACCOMMODATION RENTAL FINE SCHEDULE</u>	
<u>First Violation</u>	<u>\$2,500</u>
<u>Second Violation</u>	<u>\$5,000</u>
<u>Third Violation</u>	<u>\$10,000</u>

Section 25-4-16.20. Complaints, violations, and public information.

The director shall:

- (1) Receive and track complaints regarding transient accommodation rentals;
- (2) Establish and maintain administrative rules for determining if a complaint is valid and there has been a violation;
- (3) Provide information about rules, policies, and procedures pertaining to transient accommodation rentals to property owners, operators, neighbors, and the general public; and
- (4) Maintain a public list of all transient accommodation rentals that have registered or received a nonconforming use certificate and any violations associated with the property.

Section 25-4-16.21. Transient accommodation rental enforcement account.

- (a) The “short-term vacation rental enforcement fund” created pursuant to section 10-12, Hawai‘i County Charter, shall be renamed the “transient accommodation rental enforcement fund.” This fund shall be administered by the director.
- (b) This account shall be funded by all fees and fines collected in connection with the administration and enforcement of the County’s transient accommodation rental law.
- (c) The funds in this account shall be utilized to pay for expenses that facilitate the administration and enforcement of the County’s transient accommodation rental law.

Section 25-4-16.22. Transient accommodation rental administrative enforcement.

- (a) If the director finds that any persons have violated the provisions of this chapter, in addition to the fines established in section 16-4-16.19 and any criminal fines, the director shall impose additional fines in the amount of two times the highest daily rate at which the transient accommodation rental has been advertised.
- (b) The owner and host shall be jointly and severally liable for all fees and fines imposed in connection with the transient accommodation rental.

Section 25-4-16.23. Notice of violation and appeal.

- (a) Notice of a violation of the transient accommodation rental standards shall be transmitted in writing within ten days of the director’s determination that a violation has been committed. Written notice of violation shall be provided via certified mail.
- (b) Service of the notice of violation upon the operator shall be effective as though served upon the host and the property owner. In the event that the operator is not the property owner, a copy of the notice of violation shall also be mailed to the property owner at the address of the property owner on file with the real property tax division of the County of Hawai‘i.
- (c) Within thirty days after the transmittal of the notice of violation and order, any person adversely affected by the notice of violation and order may appeal the notice of violation and order to the board of appeals as provided by section 6-9.2, Hawai‘i County Charter and sections 25-2-20 through 25-2-25, Hawai‘i County Code. An appeal to the board of appeals shall not stay the provisions of the order pending the final decision of the board of appeals.

Section 25-4-16.24. Suspension and nonrenewal of transient accommodation rental registrations and nonconforming use certificates.

- (a) If a transient accommodation rental receives three or more enforcement actions in violation of this chapter within a twelve-month period, the director shall suspend their transient accommodation rental registration and their nonconforming use certificate if applicable, for a period of two years.
- (b) The director may also refuse to renew a certificate of registration if the applicant has not addressed an enforcement violation.

Section 25-4-16.25. Property tax assessment for transient accommodation rentals.

- (a) When any portion of a dwelling is rented or leased for less than one hundred eighty days at a time during the assessment year, the entire property will be ineligible for the real property homeowner tax classification pursuant to section 19-53. The real property tax homeowner exemption will apply proportionally to the area exclusively occupied by the homeowner pursuant to section 19-71.
- (b) When the entire dwelling is rented or leased for less than one hundred eighty days at a time during the assessment year, the entire property will be ineligible for the real property homeowner exemption and the real property homeowner tax classification pursuant to sections 19-71 and 19-72.
- (c) If there is more than one dwelling on a property, and the owner resides in one dwelling and rents or leases another dwelling for anything other than affordable rental housing (which requires an application be submitted to the real property tax division), the entire property is ineligible for the real property homeowner tax classification pursuant to section 19-53. The real property tax homeowner exemption will apply proportionally to the area exclusively occupied by the homeowner pursuant to section 19-71.
- (d) One hundred eighty days as referred to in this section is the consecutive total of days rented to a single tenant. Advertising or application for a transient accommodation rental or nonconforming use certificate will be considered as prima facia evidence.

Section 25-4-16.26. Property tax amnesty for transient accommodation rentals.

- (a) For the purpose of ensuring compliance with the registration requirements for transient accommodation rentals, a tax amnesty period shall be established.
- (b) Owners who have been operating an owner-hosted transient accommodation rental who submit a notarized affidavit to the real property tax department by December 31, 2024 indicating that they will cease transient accommodation rental operations as of the date the affidavit is signed, shall remain in the homeowner tax classification and shall not be liable for rollback taxes based on the loss of the homeowners tax class for the tax years 2022, 2023, and 2024. If transient accommodation rental operations do not cease as indicated in the affidavit, a rollback of the current year and two prior years, a ten percent penalty, and a fine will be assessed.
- (c) Owners who have been operating an owner-hosted transient accommodation rental and register the rental in accordance with this chapter by December 31, 2024 shall be assessed in accordance with chapter 19 for the subsequent tax year but shall not be liable for rollback taxes based on the loss of the homeowners tax class for the tax years 2023 and 2024.

- (d) The amnesty program shall not retroactively apply to property owners who have already been subject to property tax adjustments based on previous transient accommodation rental operations.

Section 25-4-16.27. Director duties in event of emergency.

In the event of a declared emergency, natural or manmade, where a significant number of hosted nonconforming use transient accommodation rentals are permanently lost within any given judicial district, the director shall assess the effect of such loss upon the affected district and if deemed necessary, initiate legislative and administrative opportunities to restore hosted transient accommodation rental capacity to primary residents who relocate within the affected district.”

SECTION 5. Chapter 25, article 4, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by adding the following new division to read as follows:

“Division 1.2. Hosting Platforms, Transient Accommodation Rentals.

Section 25-4-17. Booking services.

- (a) Any person or entity acting as, or on behalf of, a hosting platform shall not provide and collect, or receive a fee for booking services in connection with any transient accommodation rental that is not lawfully registered or permitted pursuant to this chapter.
- (b) Hosting platforms shall not collect nor receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a transient accommodation rental that is not lawfully registered or permitted pursuant to this chapter or does not have the appropriate use permit issued pursuant to this chapter. Prohibited ancillary services shall include insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

Section 25-4-17.1. Registration.

- (a) Hosting platforms shall not provide booking services to owners or operators of transient accommodation rentals without first registering with the department. To register, a hosting platform shall complete and provide a hosting platform registration to the director in a form prescribed by the director, pay a registration fee of \$100, and agree in writing to:
- (1) Obtain written consent from all owners or operators of transient accommodation rentals for the disclosure of the information required by the director; and
- (2) Furnish such information to the County in accordance with section 25-4-17.2.
- (b) A hosting platform may cancel its registration by delivering written notice of cancellation to the director.
- (c) The director may cancel a hosting platform's registration for cause, including any violation of this Code.
- (d) Nothing in this section relieves the owner or operator of a transient accommodation rental from the registration requirements set forth in this chapter.

Section 25-4-17.2. Reporting.

- (a) All hosting platforms registered pursuant to section 25-4-17.1 shall submit a monthly report to the director on the date and in the format prescribed by the director, for any transient accommodation rental located within the County for which the hosting platform provided booking services in the preceding month. The report shall include:
- (1) The name(s) of the persons responsible for each listing;
 - (2) The physical address and tax map key number of each listing;
 - (3) The transient accommodations tax identification number of the owner or operator of the transient accommodation rental;
 - (4) The length of stay for each listing; and
 - (5) The fee charged for each stay.
- (b) The director may disclose such information to the appropriate State or County officials to ensure compliance with this Code, State tax laws, and County tax ordinances, and any applicable land use laws and ordinances.

Section 25-4-17.3. Penalties.

Any violation of this division shall be subject to a civil fine of not less than \$1,000 and not more than \$10,000 for each day that the violation continues.

Section 25-4-17.4. Notice of violation and order; cancelation of registration; appeal.

- (a) A notice of a violation and order shall be transmitted in writing to the hosting platform within ten days of occurrence of the violation.
- (b) Notice of registration cancellation shall be transmitted in writing to the hosting platform no later than ninety days prior to the effective date of cancellation.
- (c) Within thirty days after the transmittal of the notice of violation and order or cancellation of registration, any person adversely affected by the notice of violation and order may appeal the notice of violation and order or cancellation of registration to the board of appeals as provided by section 6-9.2, Hawai'i County Charter, and sections 25-2-20 through 25-2-25. An appeal to the board of appeals shall not stay the provisions of the order pending the final decision of the board of appeals."

SECTION 6. Chapter 25, article 1, section 25-1-5 and chapter 25, article 5, sections 25-5-3(a)(13), 25-5-22(a)(15), 25-5-32(a)(18), 25-5-42(a)(24), 25-5-92(a)(32), 25-5-102(a)(35), 25-5-112(a)(52) and 25-5-122(a)(45), Hawai'i County Code, are amended by substituting the word "transient accommodation rental" or similar term, wherever the word, "short-term vacation rental" or similar term, appears, as the context requires.

SECTION 7. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 8. Severability. If any provision of this ordinance, or the application thereof to any taxpayer or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 9. This ordinance shall take effect on June 30, 2024.

INTRODUCED BY:

date Heather J. Kendall
COUNCIL MEMBER, COUNTY OF HAWAI'I

date [Signature]
COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

REFERENCE Comm. 675